

APPENDIX D

Claims 63-118 are believed to correspond with the proposed count. As none of claims 63-118 correspond exactly to the proposed count, the following explanations are provided as to why each claim corresponds substantially to the proposed count.

Claim 63: Independent claim 63 differs from the proposed count in that (1) the preamble of claim 63 recites a process for the synthesis of polyol fatty acid “polyesters” while the proposed count recites a process for the synthesis of polyol fatty acid “esters”; (2) claim 63 recites continuous removal of product comprising reaction mixture having a degree of esterification of about “10% or more” while the proposed count recites continuous removal of products comprising reaction mixture having a degree of esterification of about “1% or more”; and (3) claim 63 recites one or more subsequent reaction stages in which the reaction mixture from the initial stage is further reacted to the polyol fatty acid “polyesters” while the proposed count recites one or more subsequent reaction stages in which the reaction mixture from the initial stage is further reacted to the polyol fatty acid “esters”. The differences between claim 63 and the proposed count are not material, whereby claim 63 corresponds substantially to the proposed count.

More particularly, the term polyol fatty acid “esters” of the proposed count includes monoesters, diesters, triesters, tetraesters up to the fully fatty acid-esterified polyol. Therefore the polyol fatty acid “polyesters” recited in claim 63 are encompassed by and are not patentably distinguishable from the polyol fatty acid

“esters” in the proposed count. Similarly, the reaction mixture having a degree of esterification of about 1% or more recited in the proposed count encompasses the reaction mixture having a degree of esterification of about 10% or more recited in claim 63. A degree of esterification of about 10% or more is not patentably distinguishable from a degree of esterification of 1% or more. Thus, the differences between claim 63 and the proposed count are not material and claim 63 corresponds substantially to the proposed count.

Claims 64-88 and 96-113: Claims 64-88 and 96-113 depend directly or indirectly on independent claim 63. It is believed that none of these dependent claims define an invention which is patentably distinguishable from the process of the proposed count, whereby it is believed that dependent claims 64-88 and 96-113 correspond substantially to the proposed count for the same reasons as set forth above with respect to claim 63.

Claim 89: Independent claim 89 is similar to independent claim 63 except that independent claim 89 further recites that the fatty acid lower alkyl ester is of a volatile C₁-C₄ alcohol. As the fatty acid lower alkyl ester of a volatile C₁-C₄ alcohol as recited in claim 89 is encompassed by the fatty acid lower alkyl ester recited in the proposed count, and is not patentably distinguishable therefrom, it is believed that claim 89 corresponds substantially with the proposed count for the same reasons as set forth above with respect to claim 63.

Claims 90-92: Claims 90-92 depend directly on independent claim 89. It is believed that none of these dependent claims define an invention which is patentably

distinguishable from the process of the proposed count, whereby it is believed that dependent claims 90-92 correspond substantially to the proposed count for the same reasons as set forth above with respect to claim 89.

Claim 93: Independent claim 93 is similar to independent claim 63 except that claim 93 further defines the catalyst as being selected from the group consisting of alkali metals, alloys of two or more alkali metals, alkali metal hydrides, alkali metal alkoxides, potassium carbonate, sodium carbonate, barium carbonate, potassium hydroxide and mixtures thereof. As the catalyst group recited in claim 93 is encompassed by the catalyst recited in the proposed count, and is not patentably distinguishable therefrom, it is believed that claim 89 corresponds substantially with the proposed count for the same reasons as set forth above with respect to claim 63.

Claims 94 and 95: Claims 94 and 95 depend directly on independent claim 93. It is believed that neither of these dependent claims define an invention which is patentably distinguishable from the process of the proposed count, whereby it is believed that dependent claims 94 and 95 correspond substantially to the proposed count for the same reasons as set forth above with respect to claim 93.

Claim 114: Independent claim 114 is similar to independent claim 93 except that independent claim 114 further recites the initial reaction stage temperature is in the range of from about 130°C to about 140°C. It is believed that the initial reaction stage temperature as defined by claim 114 is encompassed by the initial reaction stage conditions of the proposed count and does not patentably distinguish the process of claim 114 from the process of the proposed count. It is therefore believed

that claim 114 corresponds substantially to the proposed count for the same reasons as set forth above with respect to claims 63 and 93, respectively.

Claim 115: Claim 115 depends directly on independent claim 114. It is believed that this dependent claim does not define an invention which is patentably distinguishable from the process of the proposed count, whereby it is believed that dependent claim 115 corresponds substantially to the count for the same reasons as set forth above with respect to claim 114.

Claim 116: Independent claim 116 is similar to independent claim 63 except that claim 116 further recites that the conditions in the initial reaction stage provide a stable heterogenous reaction mixture. Since the recitation of a steady state reaction mixture in the initial reaction stage in the proposed count encompasses an initial reaction stage having a stable heterogenous reaction mixture, the further recitation in claim 116 does not patentably distinguish claim 116 from the proposed count. It is therefore believed that claim 116 corresponds substantially with the proposed count for the same reasons as set forth above with respect to claim 63.

Claim 117: Independent claim 117 is similar to independent claim 63 except that claim 117 further recites that the conditions of the initial reaction stage aid in solubilizing the polyol. Since conditions in the initial reaction stage which aid in solubilizing the polyol are encompassed within the initial reaction stage conditions recited in the proposed count, the further recitations in claim 117 do not patentably distinguish the process of claim 117 from the process of the proposed count. It is

therefore believed that claim 117 corresponds substantially with the proposed count for the same reasons as set forth above with respect to claim 63.

Claim 118: Independent claim 118 is similar to independent claim 63 except that claim 118 further recites that the conditions of the initial reaction stage aid in solubilizing the polyol and provide a stable heterogenous reaction mixture. Since conditions in the initial reaction stage which aid in solubilizing the polyol and provide a stable heterogenous reaction mixture as recited in claim 118 are encompassed within the initial reaction stage conditions of the proposed count, as discussed with respect to claims 116 and 117 above, these further recitations in claim 118 do not patentably distinguish the process of claim 118 from the process of the proposed count. It is therefore believed that claim 118 corresponds substantially with the proposed count for the same reasons as set forth above with respect to claim 63.

Thus, all of claims 63-118 are believed to correspond substantially to the proposed count.